

AMITY, COMMERCE, AND NAVIGATION

Treaty signed at Brussels January 24, 1891

*Senate advice and consent to ratification, with amendments, January 11, 1892*¹

*Ratified by the President of the United States, with amendments, January 19, 1892*¹

Ratified by the Independent State of the Congo February 2, 1892

Ratifications exchanged at Brussels February 2, 1892

Entered into force April 2, 1892

Proclaimed by the President of the United States April 2, 1892

*Article V abrogated by the United States July 1, 1916, in accordance with Seamen's Act of March 4, 1915*²

*Entire treaty terminated July 1, 1917*³

27 Stat. 926; Treaty Series 60

TREATY OF AMITY, COMMERCE, AND NAVIGATION

The United States of America, and

His Majesty Leopold II, King of the Belgians, Sovereign of the Independent State of the Congo, desiring to perpetuate, confirm and encourage the relations of commerce and of good understanding existing already between the two respective countries by the conclusion of a treaty of amity, commerce, navigation and extradition, have for this purpose named as their respective plenipotentiaries, viz:

His Excellency the President of the United States of America,

Edwin H. Terrell, Envoy Extraordinary and Minister Plenipotentiary of the United States of America near His Majesty the King of the Belgians; and

His Majesty, Leopold II King of the Belgians, Sovereign of the Independent State of the Congo,

¹ The U.S. amendments read as follows:

"Strike out all of Article IX.

"Strike out the words 'His Excellency', in line three of Article XV [preceding 'the President of the United States']."

The text printed here is the amended text as proclaimed by the President.

² 38 Stat. 1164.

³ Pursuant to notice of termination given by Belgium July 1, 1916.

Edm. Van Eetvelde, Administrator General of the Department of Foreign Affairs, Officer of His Order of Leopold,

who, after having communicated to each other their full powers, found in good and due form, have agreed upon the following articles:

ARTICLE I

There shall be full, entire and reciprocal liberty of commerce, establishment and navigation between the citizens and inhabitants of the two High contracting Parties.

The citizens and inhabitants of the United States of America in the Independent State of the Congo and those of the Independent State of the Congo in the United States of America shall have reciprocally the right, on conforming to the laws of the country, to enter, travel and reside in all parts of their respective territories; to carry on business there; and they shall enjoy in this respect for the protection of their persons and their property the same treatment and the same rights as the natives, or the citizens and inhabitants of the most favored nation.

They can freely exercise their industry or their business, as well wholesale as retail, in the whole extent of the territories, without being subjected, as to their persons or their property, or by reason of their business, to any taxes, general or local, imposts or conditions whatsoever other or more onerous than those which are imposed or may be imposed upon the natives other than non-civilized aborigines, or upon the citizens and inhabitants of the most favored nation.

In like manner they will enjoy reciprocally the treatment of the most favored nation in all that relates to rights, privileges, exemptions and immunities whatsoever concerning their persons or their property, and in the matter of commerce, industry and navigation.

ARTICLE II

In all that concerns the acquisition, succession, possession and alienation of property, real and personal, the citizens and inhabitants of each of the High contracting Parties shall enjoy in the territories of the other all the rights which the respective laws accord or shall accord in those territories to the citizens and inhabitants of the most favored nation.

ARTICLE III

The citizens and inhabitants of each of the High contracting Parties shall be exempt, in the territories of the other, from all personal service in the army, navy or militia and from all pecuniary contributions in lieu of such, as well as from all obligatory official functions whatever, except the obligation of sitting, within a radius of one hundred kilometers from the place of their residence, as a juror in judicial proceedings; furthermore, their prop-

erty shall not be taken for the public service without an ample and sufficient compensation.

They shall have free access to the courts of the other, on conforming to the laws regulating the matter, as well for the prosecution as for the defense of their rights, in all the degrees of jurisdiction established by law. They can be represented by lawyers, and they shall enjoy, in this respect, and in what concerns domiciliary visits to their houses, manufactories, stores, warehouses, etc., the same rights and the same advantages which are or shall be granted to the citizens and inhabitants of the most favored nation, or to natives.

ARTICLE IV

The citizens and inhabitants of the two countries shall enjoy, in the territory of the other, a full and entire liberty of conscience. They shall be protected in the free exercise of their worship; they shall have the right to erect religious edifices and to organize and maintain missions.

ARTICLE V⁴

It will be lawful for the two High contracting Parties to appoint and establish consuls, vice-consuls, deputy-consuls, consular agents and commercial agents in the territories of the other; but none of these agents can exercise his functions before having received the necessary exequatur from the Government to which he is delegated.

The said agents of each of the two High contracting Parties shall enjoy, in the territories of the other, upon the footing of a complete reciprocity, all the privileges, immunities and rights which are actually granted to those of the most favored nation or which may be accorded to them hereafter.

The said agents, citizens or inhabitants of the State by which they are appointed, shall not be subject to preliminary arrest, except in the case of acts qualified as crimes by the local legislation and punished as such. They shall be exempt from military billeting and from service in the army, navy or militia, as well as from all direct taxes, unless these should be due on account of real estate, or unless the said agents should exercise a profession or business of any kind.

The said agents can raise their national flag over their offices.

The consular offices shall be at all times inviolable. The local authorities can not invade them under any pretext. They can not in any case examine or seize the papers which shall be there deposited. The consular office can not, on the other hand, serve as place of asylum, and if an agent of the consular service is engaged in business, commercial or other, the papers relating to the consulate shall be kept separate.

⁴ Art. V abrogated by the United States July 1, 1916, in accordance with Seamen's Act of Mar. 4, 1915 (38 Stat. 1164).

The said agents shall have the right to exercise all the functions generally appertaining to consuls, especially in what concerns the legalization of private and public documents, of invoices and commercial contracts, the taking of depositions and the right of authenticating legal acts and documents.

The said agents shall have the right to address the administrative and judicial authorities of the country in which they exercise their functions in order to complain of any infraction of the treaties or conventions existing between the two Governments, and for the purpose of protecting the rights and interests of the citizens and inhabitants of their country. They shall have also the right to settle all differences arising between the captains or the officers and the sailors of the sea-vessels of their nation. The local authorities shall abstain from interfering in these cases unless the maintenance of the public tranquility requires it, or, unless their assistance should be asked by the consular authority in order to assure the execution of its decisions.

The local authorities will give to the said agents and, on their default to the captains or their casual representatives, all aid for the search and arrest of sailor-deserters, who shall be kept and guarded in the prisons of the State upon the requisition and at the expense of the consuls or of the captains during a maximum delay of two months.

ARTICLE VI

The citizens and inhabitants of each of the High contracting Parties shall have reciprocally, according to the same rights and conditions and with the same privileges as those of the most favored nation, the right to enter with their vessels and cargos into all the ports and to navigate upon all the rivers and interior waters of the other State.

The vessels of each of the contracting Parties and of its citizens or inhabitants can freely navigate upon the waters of the territory of the other, without being subject to any other tolls, charges or obligations than those which the vessels belonging to the citizens or inhabitants of the most favored nation would have to bear.

There will not be imposed by either of the contracting Parties upon the vessels belonging to the other or to the citizens or inhabitants of the other, in the matter of tonnage, port charges, pilotage, lighthouse and quarantine dues, salvage of vessels and other administrative expenses whatsoever concerning navigation, any taxes or charges whatever, other or higher than those which are or shall be imposed upon the public or private vessels of the most favored nation.

It is agreed that every vessel belonging to one of the High contracting Parties or to a citizen or inhabitant of one of them, having the right to bear the flag of that country and having the right to its protection, both according to the laws of that country, shall be considered as a vessel of that nationality.

ARTICLE VII

In what concerns the freight and facilities of transportation, and tolls, the merchandise belonging to the citizens or inhabitants of one of the contracting States transported over the roads, railroads and waterways of the other State, shall be treated on the same footing as the merchandise belonging to the citizens or inhabitants of the most favored nation.

ARTICLE VIII

In the territories of neither of the High contracting Parties, shall there be established or enforced a prohibition against the importation, exportation or transit of any article of legal commerce, produced or manufactured in the territories of the other, unless this prohibition shall equally and at once be extended to all other nations.

ARTICLE IX

[Stricken out by the Senate. (Extradition provisions.)]

ARTICLE X

The Republic of the United States of America, recognizing that it is just and necessary to facilitate to the Independent State of the Congo the accomplishment of the obligations which it has contracted by virtue of the General Act of Brussels of July 2nd 1890,⁵ admits, so far as it is concerned, that import duties may be collected upon merchandise imported into the said State.

The tariff of these duties can not go beyond 10% of the value of the merchandise at the port of importation, during fifteen years to date from July 2nd 1890, except for spirits, which are regulated by the provisions of Chapter VI of the General Act of Brussels.

At the expiration of this term of fifteen years, and in default of a new accord, the United States of America will be replaced, as to the Independent State of the Congo, in the situation which existed prior to July 2nd 1890; the right to impose import duties to a maximum of 10% upon merchandise imported into the said State remaining acquired to it, on the conditions and within the limitations determined in articles XI and XII of this treaty.

ARTICLE XI

The United-States shall enjoy in the Independent State of the Congo, as to the import duties, all the advantages accorded to the most favored nation. It has been agreed besides:

1. That no differential treatment nor transit duty can be established;
2. That, in the application of the tariff *régime* which will be introduced,

⁵ TS 383, *ante*, vol. 1, p. 134.

the Congo State will apply itself to simplify as far as possible, the formalities and to facilitate the operations of commerce.

ARTICLE XII

Considering the fact that in Article X of the present treaty, the United-States of America have given their assent to the establishment of import duties in the Independent State of the Congo under certain conditions, it is well understood that the said Independent State of the Congo assures to the flag, to the vessels, to the commerce and to the citizens and inhabitants of the United States of America, in all parts of the territories of that State, all the rights, privileges and immunities concerning import and export duties, tariff *régime*, interior taxes and charges and, in a general manner, all commercial interests, which are or shall be accorded to the signatory Powers of the Act of Berlin, or to the most favored nation.

ARTICLE XIII

In case a difference should arise between the two High contracting Parties as to the validity, interpretation, application or enforcement of any of the provisions contained in the present treaty, and it could not be arranged amicably by diplomatic correspondence between the two Governments, these last agree to submit it to the judgment of an arbitration tribunal, the decision of which they bind themselves to respect and execute loyally.

The tribunal will be composed of three members. Each of the two High contracting Parties will designate one of them, selected outside of the citizens and the inhabitants of either of the contracting States and of Belgium. The High contracting Parties will ask, by common accord, a friendly Government to appoint the third arbitrator, to be selected equally outside of the two contracting States and of Belgium.

If an arbitrator should be unable to sit by reason of death, resignation or for any other cause, he shall be replaced by a new arbitrator whose appointment shall be made in the same manner as that of the arbitrator whose place he takes.

The majority of arbitrators can act in case of the intentional absence or formal withdrawal of the minority. The decision of the majority of the arbitrators will be conclusive upon all questions to be determined.

The general expenses of the arbitration procedure will be borne, in equal parts, by the two High contracting Parties; but the expenses made by either of the parties for preparing and setting forth its case will be at the cost of that party.

ARTICLE XIV

It is well understood that if the declaration on the subject of the import duties, signed July 2nd 1890, by the signatory Powers of the Act of Berlin,

should not enter into force, in that case, the present treaty would be absolutely null and without effect.

ARTICLE XV ⁶

The present treaty shall be subject to the approval and the ratification, on the one hand of the President of the United States, acting by the advice and with the consent of the Senate, and, on the other hand, of His Majesty the King of the Belgians, Sovereign of the Independent State of the Congo.

The ratifications of the present treaty shall be exchanged at the same time as those of the General Act of Brussels of July 2nd 1890, and it will enter into force at the same date as the latter.

In faith of which the respective Plenipotentiaries of the High contracting Parties have signed the present treaty in duplicate, in English and in French, and have attached thereto their seals.

Done at Brussels the twenty-fourth day of the month of January of the year Eighteen hundred and ninety one.

EDM. VAN EETVELDE	[SEAL]
EDWIN H. TERRELL	[SEAL]

⁶ For an amendment to art. XV, see footnote 1, p. 1006.